

# MEMO ENDORSED

## IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK

Leonid Falberg, as representative of a class of  
similarly situated persons, and on behalf of The  
Goldman Sachs 401(k) Plan,

Plaintiff,

v.

The Goldman Sachs Group, Inc., The Goldman  
Sachs 401(k) Plan Retirement Committee, and John  
Does 1-20,

Defendants.

Case No. 1:19-cv-09910-ER

### PLAINTIFF'S MOTION FOR LEAVE TO FILE LETTER BRIEF UNDER SEAL

The application is   <sup>x</sup>   granted  
   denied



Edgardo Ramos, U.S.D.J.

Dated: 02/15/2022

New York, New York

### TO ALL PARTIES AND THEIR COUNSEL OF RECORD:

PLEASE TAKE NOTICE that, pursuant to Section 3(ii) of the Court's Individual Practices, Plaintiff Leonid Falberg ("Plaintiff") hereby moves this Court for an order allowing him to file his response to Defendants' pre-motion letter regarding a proposed summary judgment motion ("SJ Letter Response") under seal.<sup>1</sup> In the meantime, Plaintiff is filing a redacted copy of this SJ Letter Response on the public record via ECF.

Plaintiff seeks to file this SJ Letter Response under seal because portions of the SJ Letter Response reference documents (or information contained in documents) that Defendants have designated as "Confidential" pursuant to the Protective Order entered in this action. *See ECF No. 48.* Plaintiff takes no position on whether such documents have been properly designated as Confidential by Defendants, and it shall be Defendants' obligation to support this motion as the parties who designated the underlying material "Confidential."

<sup>1</sup> This motion is specific to Plaintiff's letter addressing Defendants' summary judgment arguments. Plaintiff does *not* seek to file his separate letter addressing Defendants' *Daubert* arguments under seal.

WHEREFORE, subject to Defendants making the necessary showing, Plaintiff respectfully requests that this Court enter an order allowing him to file his SJ Letter Response under seal.

Respectfully Submitted,

Dated: February 9, 2022

**NICHOLS KASTER, PLLP**

s/Kai Richter

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**ATTORNEYS FOR PLAINTIFF**

**CERTIFICATE OF SERVICE**

I hereby certify that on February 9, 2022, a true and correct copy of the foregoing was served by CM/ECF to the parties registered to the Court's CM/ECF system.

Dated: February 9, 2022

s/Kai Richter  
Kai Richter